

Under the broadcast flag mandate, what is legal or illegal is not defined by the law, but defined by a technological device (the broadcast flag and associated technologies). The proposed mandate simply states that what is implemented should not be tampered with.

In other words, the legislator relinquishes its duty to legislate. Instead, a handful of engineers and corporations can produce ever more restrictive implementations of the technological device. These restrictions then become binding with little or no democratic control.

My position is that the legislator should directly say what is allowed or forbidden. In fact the copyright law already says this with sufficient accuracy.

In particular, the proposed mandate provides a few content providers with the power to curtail the "fair use" dispositions of the copyright law, with little or no control of the public at large.

As a member of the public, I state that I prefer to keep democratic control over these dispositions, even if this means that certain established content providers might be less willing to produce content.

Let me conclude with two quotes:

"There has grown up in the minds of certain groups in this country the notion that because a man or corporation has made a profit out of the public for a number of years, the government and the courts are charged with the duty of guaranteeing such profit in the future, even in the face of changing circumstances and contrary to public interest. This strange doctrine is not supported by statute or common law. Neither individuals nor corporations have any right to come into court and ask that the clock of history be stopped, or turned back." -- RobertHeinlein

"Whenever there is a conflict between human rights and property rights, human rights must prevail"
-- AbrahamLincoln